

"2. The said article is a component of food and is therefore a food. (21 U. S. C. A. 321 (f))

"3. In determining whether labeling is misleading there shall be taken into account whether the labeling fails to reveal any fact material in the light of representations made on the labeling or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual. (21 U. S. C. A. 321 (n))

"4. As said in *United States v. 62 Packages * * * Marmola Tablets*, 48 Fed. Supp. 878, l. c. 887:

The Federal Food Drug and Cosmetic Act was not made for experts nor is it intended to prevent self-medication. The purpose of the law is to protect the public, the vast multitude which includes the ignorant, the unthinking and the credulous, who, when making a purchase, do not stop to analyze.

"5. The labeling on said article is misleading in that it fails to reveal that the said article contains a poisonous, toxic and caustic substance and said fact is material in the light of the representation that said article is to be used as a component of liquids for human consumption.

"6. The labeling in the cause herein is misleading and should contain the definite information that monochloroacetic acid is poisonous.

"7. The said article seized herein was misbranded while in interstate commerce.

"8. The said article was seized in the Eastern District of Missouri, Eastern Division.

"9. On the facts heretofore found, Libelant is entitled to condemnation and forfeiture of said article and for costs to be assessed against the claimant."

On May 2, 1946, judgment of condemnation was entered and the product was ordered destroyed. A motion for a new trial and a motion to amend the findings of fact and conclusions of law was subsequently filed on behalf of the claimant, but were overruled by the court on June 14, 1946.

12834. Misbranding of Esterex. U. S. v. 4 Jugs * * * (and 1 other seizure action). (F. D. C. Nos. 20615, 20634. Sample Nos. 45206-H, 49056-H.)

LIBELS FILED: August 8 and 20, 1946, Northern District of Texas and Southern District of California.

ALLEGED SHIPMENT: On or about July 19, September 21, and October 12, 1945, by the C. O. & W. D. Sethness Co., from Chicago, Ill.

PRODUCT: Esterex. 4 1-gallon jugs at Abilene, Tex., and 64 1-gallon bottles at Fowler, Calif.

LABEL, IN PART: "Cosco Esterex * * * Aqueous Solution of Monochloroacetic Acid."

NATURE OF CHARGE: Misbranding, Section 403 (a), the labeling of the article was misleading, since the trade mark "Esterex" coupled with the directions for use, represented to purchasers that the article was wholesome and suitable for use as a component of beverages, whereas the article contained in one shipment about 19 percent and in the other shipment about 25 percent, of monochloroacetic acid, a poisonous and deleterious substance; and the labeling failed to reveal the material fact that the article contained a poisonous and deleterious substance.

DISPOSITION: November 26 and December 18, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

12835. Misbranding of sugar extender. U. S. v. 1 Pail * * * (and 1 other seizure action). (F. D. C. Nos. 22571, 23638. Sample Nos. 54297-H, 81831-H.)

LIBELS FILED: February 27 and August 26, 1947, District of Idaho and Southern District of Florida.

ALLEGED SHIPMENT: On or about November 15, 1946, and January 10, 1947, by the Vitaplex Co., from Chicago, Ill.

PRODUCT: Sugar extender. 1 3-gallon pail at St. Maries, Idaho, and 1 3-gallon pail at Belle Glade, Fla.

LABEL, IN PART: "Vitaplex Brand Single Strength Sugar Extender. Not a Saccharin Product 1 Gal. Vitaplex replaces 230 lbs. of sugar. Usable in all

beverages. Half and half with sugar syrup 2 ozs. of Vitaplex replaces 3 lbs. and 9 ozs. of sugar * * * Ingredients—Phenetylurea, Propylene Glycol and Alcohol Chemically Pure Without Food Value."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Sugar Extender * * * 1 Gal. Vitaplex replaces 230 lbs. of sugar. Usable in all beverages. Half and half with sugar syrup 2 ozs. of Vitaplex replaces 3 lbs. and 9 ozs. of sugar" was false and misleading, since the product was an artificial, nonnutritive sweetener and had no food value, and it did not replace or extend sugar; and the label statement "Not a Saccharin Product" was misleading, since it failed to reveal with equal conspicuousness the fact that the product contained dulcin, a nonnutritive sweetener similar to saccharin.

DISPOSITION: April 14 and October 24, 1947. Default decrees of forfeiture and destruction.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

12836. Adulteration of bread. U. S. v. Leonard E. Richardson and Gladys F. Richardson (Richardson Baking Company). Pleas of guilty. Defendants fined \$1,000 and \$750, respectively. (F. D. C. No. 23314. Sample No. 54080-H.)

INFORMATION FILED: August 5, 1947, Southern District of Ohio, against Leonard E. Richardson and Gladys F. Richardson, trading as the Richardson Baking Company, at Marietta, Ohio.

ALLEGED SHIPMENT: On or about April 2, 1947, from the State of Ohio into the State of West Virginia.

LABEL, IN PART: "Sliced Sunfed Bread Rich-Loaf."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Disposition: September 26, 1947. Pleas of guilty having been entered, Leonard E. Richardson was fined \$1,000, and Gladys F. Richardson was fined \$750.

12837. Adulteration of bread, cake, and rolls. U. S. v. Schouten's Bakery, Inc., and Hubert Schouten and Chester B. Schouten. Pleas of guilty. Corporation fined \$30 and costs; each individual fined \$30. F. D. C. No. 23303. Sample Nos. 77429-H to 77431-H, incl.)

INFORMATION FILED: July 23, 1947, Southern District of Iowa, against Schouten's Bakery, Inc., Keokuk, Iowa, and Hubert Schouten, president-treasurer, and Chester B. Schouten, secretary and vice-president, of the corporation.

ALLEGED SHIPMENT: On or about March 22, 1947, from the State of Iowa into the State of Illinois.

LABEL, IN PART: (Bread and cake) "Sunrise Bread," "Schouten's Bread Whole Wheat," or "Schouten's Coffee Cake." The rolls were unlabeled.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insects, insect fragments, rodent hair fragments, and a hair resembling cat hair; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 28, 1947. Pleas of guilty having been entered on behalf of the defendants, the corporation was fined \$30 and costs, and each individual defendant was fined \$30.

12838. Adulteration of cookies. U. S. v. United Biscuit Company of America (Keebler-Weyl Baking Company, Division of United Biscuit Company of America), and John Y. Huber, Jr., and John C. Baxter. Pleas of nolo contendere by corporation and not guilty by individuals. Corporation fined \$5,000; individuals found not guilty. (F. D. C. No. 23593. Sample Nos. 4692-H, 4699-H, 7192-H, 7193-H, 90850-H.)

INFORMATION FILED: November 21, 1947, against United Biscuit Company of America, trading as the Keebler-Weyl Baking Company, Division of United Biscuit Company of America, at Philadelphia, Pa., and John Y. Huber, Jr., vice-president, and John C. Baxter, plant superintendent.